



CITY OF HAYWARD AGENDA REPORT

AGENDA DATE 10/24/06

AGENDA ITEM 4

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Appointment of the Bay Area Water Supply and Conservation Agency to Represent the City of Hayward in Negotiations with San Francisco Public Utilities Commission for a New Water Service Agreement

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution appointing the Bay Area Water Supply and Conservation Agency to represent the City of Hayward in negotiations with San Francisco Public Utilities Commission for a new water service agreement.

DISCUSSION:

The City of Hayward receives 100 percent of its water supply from the San Francisco Public Utilities Commission's Hetch Hetchy water system. This water supply is governed by two documents: 1) the 1962 contract between the City of Hayward and the San Francisco Water Department; and 2) the 1984 Settlement Agreement and Master Water Sales Contract between the San Francisco Public Utilities Commission (SFPUC) and its wholesale customers.

The 1962 contract primarily addresses the quantity of water to be delivered to Hayward and, unlike all other similar contracts between SFPUC and other suburban agencies, does not have an expiration date. This is the agreement by which Hayward is assured of receiving sufficient water supplies to meet demand, as long as adequate water supplies are available.


The title of the second document reflects the fact that the contract settled a federal court lawsuit challenging San Francisco water rates and by extension the methodology employed by the SFPUC in establishing rates. The Master Sales Contract focuses on issues that are common to all wholesale purchasers of SFPUC water, such as the setting of wholesale water rates and allocation of costs. In that the 1984 agreement is due to expire in June 2009, it is prudent to take the necessary steps towards negotiating a new water service agreement, so that issues related to water supply reliability, water quality and fair pricing are covered.

Two approaches may be used to negotiate a new water service agreement: 1) negotiate independently with the SFPUC; or, 2) negotiate in cooperation with the other wholesale customers. Staff recommends the latter approach in order to present a unified and consistent message to the SFPUC, and to have the benefit of a negotiating team that is experienced and knowledgeable in a broad range of complex issues.

The Bay Area Water Supply and Conservation Agency (BAWSCA) is qualified and willing to represent its member agencies in negotiations with the SFPUC. BAWSCA was formed in 2003 following approval of state legislation enabling its establishment. It consists of 28 wholesale customers, including Hayward, that purchase water from the SFPUC. As reviewed with the Council in 2003 when it agreed to join BAWSCA, the major functions of this organization include the acquisition and construction of facilities for the treatment, storage and transmission of potable water, and implementation of water recycling and conservation programs. A Board of Directors, consisting of one director from each member agency serves as the governing body of BAWSCA.

BAWSCA's predecessor organization, the Bay Area Water Users Association, negotiated the 1984 Master Sales Contract. BAWSCA has provided a central point of contract oversight and, in part, ensures that only appropriate SFPUC system costs are charged to wholesale customer rates. It is staff's recommendation that the City Council authorize BAWSCA to represent the City in contract negotiations, predicated on agreement with having City staff present and participating in the negotiations. While BAWSCA would serve as the spokesperson during the negotiations, having Hayward staff "at the table" will ensure that Hayward's interests are represented. BAWSCA is in agreement with our participation, and staff will obtain written confirmation of such concurrence. Other BAWSCA agencies have adopted or soon will adopt resolutions designating BAWSCA as their representative.

Staff recommends the Council adopt the attached resolution. It should be noted that approval of the resolution authorizes BAWSCA to represent the City in discussions related to the water service agreement only, and has no bearing on the 1962 contract regarding water supply. As Hayward's individual water supply contract will not be the subject of these negotiations, it will not be affected by the new water service agreement. Agencies with supply contracts that expire in 2009 will work out their renewal individually with the SFPUC after negotiations related to the master water service contract have concluded.



Jesús Armas, City Manager

DRAFT NH 10/19/06

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION APPOINTING THE BAY AREA WATER
SUPPLY AND CONSERVATION AGENCY AS
AUTHORIZED REPRESENTATIVE OF CITY OF
HAYWARD IN DISCUSSIONS/NEGOTIATIONS WITH
SAN FRANCISCO FOR A NEW WATER SERVICE
AGREEMENT

WHEREAS, in 1984, the City of Hayward, together with other water suppliers in Alameda, San Mateo and Santa Clara counties, entered into a "Settlement Agreement and Master Water Sales Contract" with the City and County of San Francisco (San Francisco); and

WHEREAS, the 1984 Master Water Sales Contract with expire on June 30, 2009; and

WHEREAS, in April 2003, the City of Hayward and other water suppliers in Alameda, San Mateo and Santa Clara counties established the Bay Area Water Supply and Conservation Agency (BAWSCA) as authorized by Water Code Section 81300 *et seq.* pursuant to State legislation enacted in 2002 (AB 2058), and Hayward is represented on the BAWSCA Board of Directors; and

WHEREAS, BAWSCA has proposed to serve as the representative of its members in discussions and negotiations with San Francisco leading toward a continued and improved contractual relationship with San Francisco for delivery of drinking water after June 2009; and

WHEREAS, BAWSCA has the capabilities to serve in this capacity by virtue of Agency staff and consultants in relevant disciplines; and

WHEREAS, BAWSCA's General Manager has met with Hayward's representatives to discuss their perspectives on a continued contractual relationship with San Francisco for water supply; and

WHEREAS, Hayward has an individual water supply contract with San Francisco that differs from other agencies in that Hayward's contract does not have an expiration date and a preset supply limit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that BAWSCA is hereby appointed as its authorized representative in discussions and negotiations with San Francisco for the terms and conditions of a successor

agreement to the 1984 Master Water Sales Contract, to be incorporated into a new overall agreement between San Francisco and its regional customers. This appointment shall continue until revoked by the City Council.

BE IT FURTHER RESOLVED that the designation of BAWSCA as noted herein is predicated on City staff being present and participating in the discussions and negotiations to ensure that Hayward's interests are represented.

BE IT FURTHER RESOLVED that this resolution confers no authority on BAWSCA to enter into a contract with San Francisco or to make any commitments legally binding on the City. The authority to enter into any contracts is expressly reserved to the City Council.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2006

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward